

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. In this Amendment, no claims have been amended, nor canceled, nor added. The Examiner has rejected all pending claims under 35 U.S.C. §103(a) as being unpatentable over a combination of U.S. Pub. No. 2005/0021863 (“Jungck”) and U.S. Pub. No. 2003/0031176 (“Sim”) (collectively, “the Junck-Sim combination”).

First and foremost, Applicant notes that the Office’s prior rejections were based on the Junck-Sim combination, and Applicant reiterates its arguments from the April 14, 2010 and October 21, 2010 Amendments, in which Applicant argued, among other things, that the Junck-Sim combination fails to teach using a dynamic measure of popularity of content in combination with a dynamic replication threshold. Accordingly, the Junck-Sim combination fails to establish a *prima facie* case of obviousness with respect to any claim of the present application. For at least this reason, the claims are believed allowable over the Junck-Sim combination.

The following passages of Sim demonstrate a clear difference in the teachings of Sim and the embodiment recited in each independent claim.

- Sim, **para. 0047** discloses the determination of the amount of content contained in a local storage in order to determine how much additional content to save to the storage, but this determined value is in no way related to a dynamic replication threshold for use in deciding “when” to replicate popular content.
- While Sim, **para. 0052** discloses use of factors of available storage, popularity of the content, distribution criteria by the content provider, but these factors are only taught by Sim in this context to affect the amounts of a large file that may stored at a particular node, but again, are not related in any way to a dynamic replication threshold for use in deciding “when” to replicate popular content.
- Sim, **para. 0138** describes factors (e.g., available storage) used to determine the initial distribution of blocks of content to a node, and available storage is one such factor, but again this passage fails to teach

using these factors to define at least in part a dynamic replication threshold for use in deciding “when” to replicate popular content. While this passage discloses something called a “popularity index,” this index is not dynamic as it is explicitly described as set by the content provider, therefore, in this context, Sim actually teaches against such dynamic replication threshold. Accordingly, the combination of Sim with any other reference is improper given Sim teaches a static solution to replication that is the opposite to the dynamic solution provided in connection with the embodiments recited in the claims of this application.

- In Sim, **para. 0230**, Sim describes a process for removing less popular content in order to make room for more popular content, but again this passage doesn’t teach or suggest using this process or the results of this process to at least in part define a dynamic threshold for use in deciding “when” to replicate popular content.

The foregoing passages set forth specific deficiencies that are not found in either Junck or Sim, and consequently the Junck-Sim combination fails to meet the requirements of a *prima facie* case of obviousness, *which at a minimum*, requires identification of each limitation in each independent claim in the cited art. Without this burden of proof satisfied by the Office Action, Applicant again respectfully submits that this application is allowable over the outstanding rejections. Each claim in the present application recites this limitation either explicitly or through dependency, and therefore each claim is believed to be in condition for allowance.

**Conclusion**

In view of the remarks above, the pending claims are believed to be in condition for allowance. Should the Examiner persist in the outstanding rejections even after these amendments, he is invited to contact the undersigned at the telephone number below in order to continue expedition of the present application through prosecution.

Aside from the extension fees noted above, no other fees are believed due concurrently with the filing of this Amendment. Should any additional fees be required, please consider this a request therefore and authorization to charge Deposit Account No. 50-5063 as necessary.

Respectfully submitted,

/David. D. Wier /

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